

PUBLIC NOTICE

US Army
Corps
of Engineers
Baltimore
District

In Reply to Application Number
CENAB-OP-RMS(INN AT PERRY CABIN
CORP)02-63071-3

Comment Period: November 4, 2002 to November 19, 2002

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC ABOUT THE WORK DESCRIBED BELOW. AT THIS TIME, NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED.

The Baltimore District has received an application for a Department of the Army permit pursuant to Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act (33 U.S.C. 1344), as described below:

APPLICANT *Inn at Perry Cabin Corp.*
 Attn: Stephen Creese, General Manager
 308 Watkins Lane
 St. Michaels, Maryland 21663

LOCATION: *In the Miles River in St. Michaels, Talbot County, Maryland*

WORK: To restore and enhance 44,980 square feet of degraded emergent tidal wetlands; to restore a 200-foot long tidal channel connecting a tidal pond to the Miles River; to fill, grade, and plant Spartina alterniflora and Spartina patens marsh vegetation along 475 feet of eroding shoreline not to extend more than 35 feet channelward of the mean high water shoreline, converting 13,400 square feet of open water to emergent tidal wetlands; to install one new storm drainage outfall; to impact 400 square feet of forested nontidal wetlands; to convert 11,400 square feet of forested nontidal wetlands to emergent nontidal wetlands; to impact 51,200 square feet of forested nontidal wetland buffer; to construct 475 linear feet of low profile sill to protect the proposed marsh vegetation and to construct a walkway across nontidal wetlands.

MITIGATION: The applicant proposes to create 14,000 square feet of forested nontidal wetlands.

PURPOSE: For shore erosion control, wetland and fish habitat creation and tidal flushing improvement.

ESSENTIAL FISH HABITAT ASSESSMENT (EFH): The Magnuson-Stevens Fishery Conservation and Management Act (MCFCMA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267,) requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect EFH. The Essential Fish Habitat Designations within the Northeast Region (Maine to Virginia) dated March 1, 1999 has identified EFH for a number of species in various life stages. The proposed project site is located within the Miles River, a tributary of Eastern Bay and the Chesapeake Bay mainstem. The Miles River lies in or adjacent to EFH as described under MSFCMA. The Miles River is listed as an EFH area for Paralichthys dentatus (summer flounder) for larvae, juvenile and adult stages; Stenotomus chrysops (scup) for juvenile and adult stages; Centropristus striata (Black sea bass) for juvenile and adult stages; Pomatomus saltatrix (bluefish) juvenile and adult stages; Peprilus triacanthus (Atlantic butterfish) for egg, larvae, juvenile and adult stages; Urophycis chuss (red hake) for juvenile and adult stages; Clupea harengus (Atlantic sea herring) for adult stages;

Scopthalmus aquosus (windowpane flounder) for juvenile and adult stages; Sciaenops ocellatus (red drum) for egg, larvae, juvenile and adult stages; Scomberomorus cavalla (king mackerel) for egg, larvae, juvenile and adult stages; and Rachyentron canadum (cobia) for egg, larvae, juvenile and adult stages. The project has the potential to adversely effect EFH or the species of concern by loss of spawning, nursery, forage and/or shelter habitat. The Baltimore District has determined that the adverse effects of this project would not be substantial and an abbreviated consultation will be conducted with NMFS. No mitigative measures are recommended to minimize adverse effects on EFH at this time. This determination may be modified if additional information indicates otherwise and would change the preliminary determination.

All work is to be completed in accordance with the enclosed plan(s). If you have any questions concerning this matter, please call Mrs. Lynette Rhodes at (410)962-5686.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The applicant is required to obtain a water quality certification in accordance with Section 401 of the Clean Water Act from the Maryland Department of the Environment. Any written comments concerning the work described above which relate to water quality certification must be received by the Standards and Certification Division Maryland Department of the Environment, Building 30, First Floor, 2500 Broening Highway, Baltimore, Maryland 21224 within the comment period as specified above to receive consideration. Written comments concerning the work described above related to the factors listed above or other pertinent factors must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified above to receive consideration. The 401 certifying agency has a statutory limit of one year to make its decision.

The applicant has certified in this application that the proposed activity complies with and will be conducted in a manner consistent with the Maryland Coastal Zone Program. This certification statement is available for inspection in the District Office; however, public comments relating to consistency must be received by the Coastal Zone Division, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224, within the comment period as specified above. It should be noted that CZ Division has a statutory limit of 6 months in which to make its consistency determination.

The applicant must obtain any State or local government permits which may be required.

A preliminary review of this application indicates that the proposed work may affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Review of the latest published version of the National Register of Historic Places indicates that no registered properties listed as eligible for inclusion therein are located at the site of the proposed work. Currently unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by the work to be accomplished under the requested permit.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. Any person who has an interest which may be adversely affected by the issuance of this permit may request a public hearing. The request, which must be in writing, must be received by the District Engineer, US Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203-1715, within the comment period as specified as above to receive consideration. Also, it must clearly state forth the interest which may be adversely affected by this activity in the manner in which the interest may be adversely affected.

It is requested that you communicate the foregoing information concerning the proposed work to any persons known by you to be interested and not being known to this office, who did not receive a copy of this notice.

FOR THE DISTRICT ENGINEER:


WALTER WASHINGTON, JR.
Chief, Maryland Section Southern

Proposed Stormwater Outfall

Proposed Non-tidal
Wetland Conversion

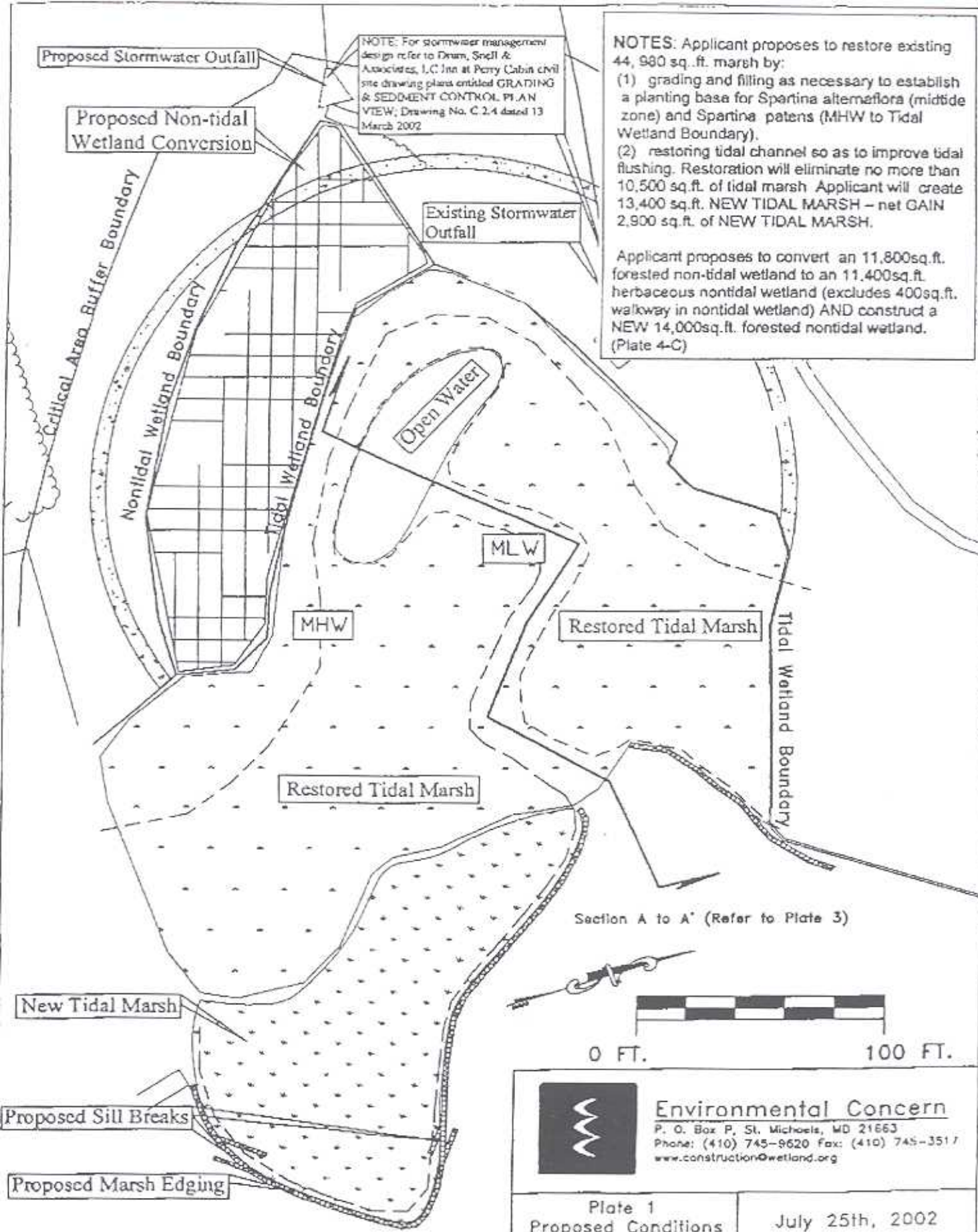
NOTE: For stormwater management design refer to Drum, Snell & Associates, I.C. Inc. at Perry Cabin civil site drawing plans entitled GRADING & SEDIMENT CONTROL PLAN VIEW; Drawing No. C 2.4 dated 13 March 2002.

Existing Stormwater
Outfall

NOTES: Applicant proposes to restore existing 44,980 sq. ft. marsh by:

- (1) grading and filling as necessary to establish a planting base for *Spartina alterniflora* (midtide zone) and *Spartina patens* (MHW to Tidal Wetland Boundary).
- (2) restoring tidal channel so as to improve tidal flushing. Restoration will eliminate no more than 10,500 sq. ft. of tidal marsh. Applicant will create 13,400 sq. ft. NEW TIDAL MARSH - net GAIN 2,900 sq. ft. of NEW TIDAL MARSH.

Applicant proposes to convert an 11,800sq. ft. forested non-tidal wetland to an 11,400sq. ft. herbaceous nontidal wetland (excludes 400sq. ft. walkway in nontidal wetland) AND construct a NEW 14,000sq. ft. forested nontidal wetland. (Plate 4-C)



Section A to A' (Refer to Plate 3)

0 FT.

100 FT.



Environmental Concern

P. O. Box P, St. Michaels, MD 21663
Phone: (410) 745-9620 Fax: (410) 745-3517
www.constructionwetland.org

Plate 1
Proposed Conditions

July 25th, 2002

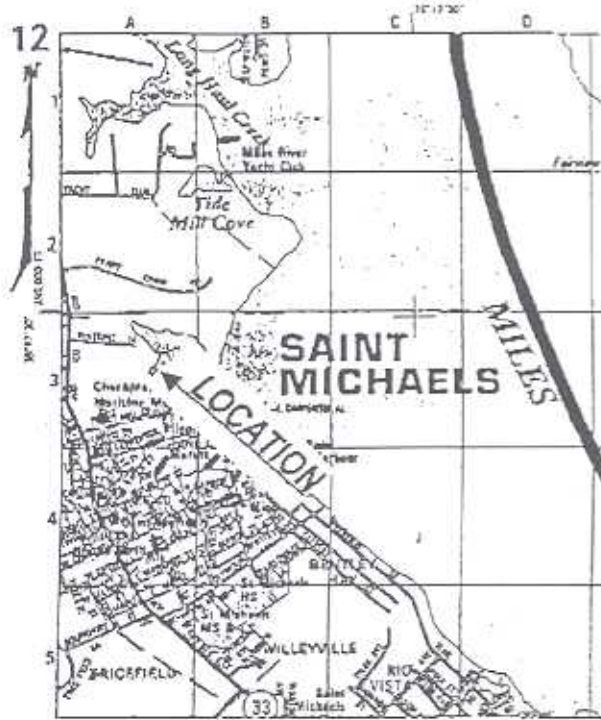


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Plate 2
Existing Conditions

April 29th, 2002



PROPOSED CHANGES (Plates 1&3)

Remove remaining rubble from tidal wetland and grade area to improve tidal flushing.

Remove depositional material from pond and surrounding area, expanding pond to approx. 20,600sq.ft.

Remove rubble and inorganic debris from shoreline approximately 35ft. channelward of MHW (72ft. max)

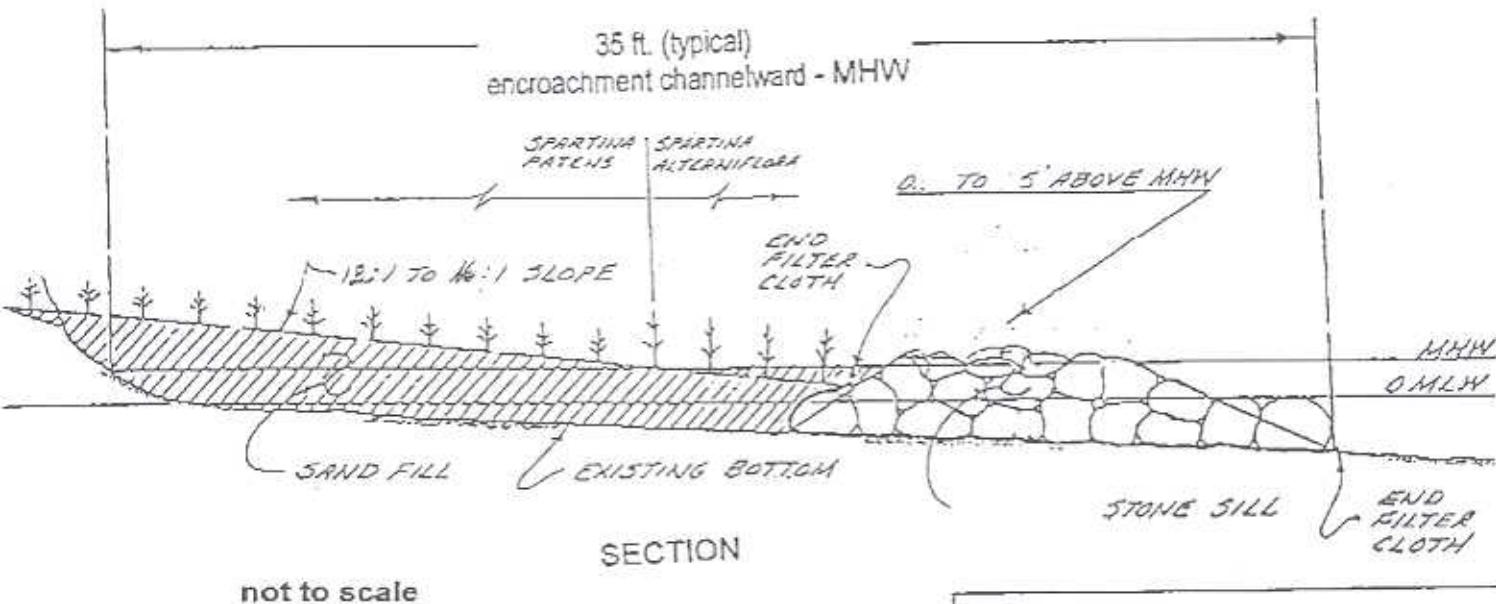
Construct low profile sill approx 475lin.ft. to protect new marsh.

Sand will be placed behind this structure to create 13,400 sq.ft. of new marsh. New marsh and existing wetlands will be planted with 25,000 pea pots of *Spartina alterniflora* and *Spartina Patens*.

Net gain 1,900 sq.ft. new tidal wetland

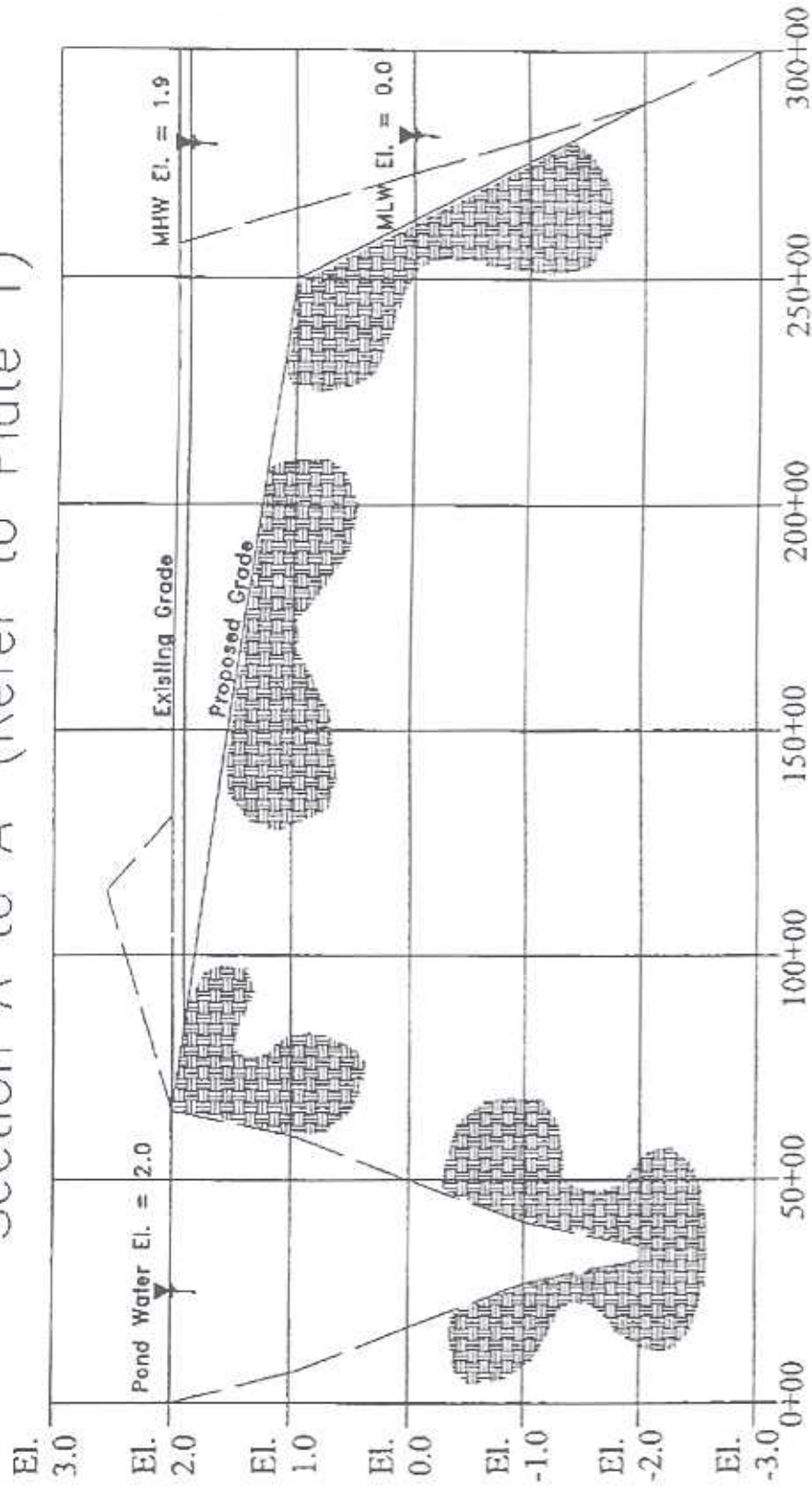
Construct a new stormwater outfall. This new outfall will discharge stormwater into the critical area buffer. The stormwater discharge will be pretreated for quality – consistent with BMP. (see Drum Snell Associates LC, Inn at Perry Cabin civil site drawing entitled GRADING & SEDIMENT CONTROL PLAN VIEW – attached).

STONE SILL STRUCTURE AND NEW MARSH



Environmental Concern Inc.
P.O. Box P St. Michaels, MD 21663
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Section A to A' (Refer to Plate 1)



Environmental Concern

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www.construction@wetland.org

Plate 3

Section A to A'

May 3rd, 2002

NOTES:

Applicant proposes to convert an 11,800sq.ft. forested non-tidal wetland to an 11,400sq.ft. herbaceous nontidal wetland. (see Plate 1 *Proposed Conditions*). Applicant proposes to construct a walkway in through the converted wetland and the buffer. The walkway will impact approximately 400 sq.ft. of the non-tidal wetland and approximately 1,200 sq.ft. of the buffer.

In mitigation, applicant proposes to construct a NEW 14,000sq.ft. forested nontidal wetland at the northerly end of the property.

Wetland Mitigation Area C

14,000 sq.ft. non-tidal forested wetland. Sixty-eight (68) trees (or functional equivalent) planted Area to be planted with native species only. Exact species and mix to be determined by Landscape Architect



Proposed
Restoration



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Inn at Perry Cabin

Plate 4 - C